



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/644,411 | 08/23/2000 | Gerald H. Ablan | 4A02.1-010 | 1730 |

35725 7590 04/04/2005

MEHRMAN LAW OFFICE, P.C.
ONE PREMIER PLAZA
5605 GLENRIDGE DRIVE, STE. 795
ATLANTA, GA 30342

| |
|----------|
| EXAMINER |
|----------|

HEWITT II, CALVIN L

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3621

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/644,411

Applicant(s)

ABLAN, GERALD H.

Examiner

Calvin L Hewitt II

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27,29-50 and 53-66 is/are pending in the application.
- 4a) Of the above claim(s) 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27,29-50 and 53-66 is/are rejected.
- 7) ☐ Claim(s) 58 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Ac

Status of Claims

1. Claims 27, 29-50, and 53-66 have been examined.

Claim Objections

2. Claim 58 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim not been further treated on the merits.

Response to Arguments

3. Claims in a pending application should be given their broadest possible interpretation (*In re Pearson*, 181 USPQ 641 (CCPA 1974)), and in order to construe a disputed claim term it is proper to seek the ordinary meaning of the claim term (*E-Pass Technologies Inc. V. 3Com Corp.* 67 USPQ2D 1947 (CAFC 2003)). In order to distinguish the Applicant's claims from the prior art the Applicant asserts that the prior art of Rackson et al. does not teach reusable inventory records, reusable advertisement templates and a library of reusable action submissions. Rackson et al. teach inventory records and an advertising template that are automatically combined with an image record, in response to a

user command (figure 4; items, 116, 120, 124, 130, 132, 142, 144 and 150) and replicated across multiple auction sites (figure 4). This “replication” process defines reusability. Therefore, Rackson et al. also teach setting storing reusable submissions (column/line 10/52-11/5; column/line 11/33-12/10).

Regarding auction houses, such as Sotheby's or E-bay, the Examiner maintains that it would have been obvious to one of ordinary skill to look to established methods for conducting an auction (in considering disclosure of reference patent, it is pertinent to point out not only specific teachings of patent but also the **reasonable inferences** which one skilled in the art would logically draw therefrom-*In re Shepard*, 138 USPQ 148 (CCPA 1963)). Applicant also contends that Applicant's claimed system is distinguishable from the prior art based on data fields. The Examiner respectfully disagrees as Strickland et al. teach a customer management interface for tracking, by a seller, customer account data using fields for payment status, buyer notification and delivery of services status (figure 1). Regarding an “auction item”, this is non-functional data and nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious (*In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)). Further, it would have been obvious to one of ordinary skill to customize the GUI of Strickland et al. according to the business rules of said skilled artisan.

The following assertion of facts has gone unchallenged and are considered admitted prior art:

- pushing and pulling data

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27 and 29-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 27 recites “and for each of a plurality of selected inventory records” however, the method is silent regarding a selection. Therefore, there is insufficient antecedent basis for this limitation in the claim.

Claims 29-50 are also rejected as they depend from claim 27.

Claim 34 has been amended to recite “wherein the auction parameters include posting date, posting time, auction end date, auction end time, payment type, shipping method, minimum bid, reserve price, and private auction indicator”. However, claim 27 from which claim 34 depends recites “one or more auction parameters”. Therefore, if the method of claim 27 uses only *one* parameter it could not possibly include the multiple parameters of claim 34.

Hence, for purposes of examination the Examiner is interpreting claim 34 as follows: wherein the one or more auction parameters is a posting date, posting time, auction end date, auction end time, payment type, shipping method, minimum bid, reserve price, or a private auction indicator.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 27, 29-31, 34-37, 47-50, and 53-56 are rejected under 35

U.S.C. 102(e) as being clearly anticipated by Rackson et al., U.S. Patent No. 6,415,270.

As per claims 27, 29-31, 34-37, 47-50 and 53-56, Rackson et al. teach an auction system comprising:

- creating an auction consolidation account for a set of items for sale at auction (figure 4) where the items can be sold all at once, or be broken up over multiple auctions (column/line 10/64-11/33)
- receiving (via user input) reusable inventory records and storing in a library inventory records, image records, and reusable advertisement templates (figure 4; column 9, lines 5-50)
- creating a reusable auction submission combining an inventory record, image record and advertisement template (figures 3, 4 and 10; column 9, lines 5-50)
- storing the submission in a library in association with an account (figures 3, 4 and 10)
- transmitting the submission for auction to one or more sites in accordance with the auction parameters (figures 3, 4, and 10; column 8, lines 5-17)
- compiling a consolidated auction monitoring report pertaining to said request and in association with said account, said report containing information pertaining to each request wherein the report comprises a plurality of records in which each record contains auction information (figure 14; column/line 24/5-25/35; column 26, lines 21-28)
- revisiting each auction site to extract update information, updating the report and displaying the report to a user (figure 14; column 23, lines 30-55; column/line 25/35-26/29)

- repeatedly constructing, transmitting and posting auction submissions, and monitoring auction reports (figures 3, 4, 10 and 14; column 8, lines 1-2)
- auction parameters from the group of posting date or time, auction end date or time, payment type, shipping method, minimum bid, reserve price and private auction indicator (column 9, lines 25-35)
- rendering the auction submission as an HTML page (column 8, lines 18-48)
- identifying a page, and downloading and parsing the page to extract updated auction information (figures 1-3, 10 and 14; column 8, lines 18-63)
- posting auction requests on different sites (column 12, lines 47-57; column 23, lines 5-17)
- instantiating or receiving at an advertisement database text and images (column 9, lines 20-35)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al., U.S. Patent No. 6,415,270 in view of Robinson et al. 5,915,022.

As per claims 31-33, Rackson et al. teach a system for conducting electronic transactions (figures 3, 4, 10 and 14). However, Rackson et al. do not specifically recite maintaining billing and sales records. Robinson et al. teach a method and system for conducting secure transactions comprising obtaining, creating and storing sales and billing records (abstract; figures 1-1-6C). Robinson et al. also teach transmitting a billing record to a purchaser (figure 1-2 and 5). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Rackson et al. and Robinson et al. in order to authenticate an electronic transaction by providing both parties with an accurate and secure record of the transaction ('022, column 2, lines 35-43).

9. Claims 38-43 and 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al., U.S. Patent No. 6,415,270.

As per claim 38, Rackson et al. teach providing a user with an internet interface for accessing update information (figure 14; column/line 25/55-26/29).

Rackson et al. does not specifically recite when the extraction occurs. However, the “pushing” and “pulling” of data are old and well known and it would have been obvious to one of ordinary skill to use whatever method (i.e. “push” or “pull”) to obtain the data.

As per claims 39-43 and 59-63, Rackson et al. teach an auction system utilizing computer instructions and automation tools comprising: creating a user account, presenting the user items to be auctioned, presenting using an intelligent system to retrieve items that match a user’s criteria- automatic feedback, a user bidding on an item, a consolidation bidding report that reflects that user bidding activity across multiple stations, monitoring bids, closing an auction, post sale and payment operations (abstract; figures 12-14; column 1, lines 37-45; column 3, lines 40-58; column/line 3/57-5/7; column/line 16/40-17/58; column 18, lines 11-17; column 19, lines 49-58). Regarding the extraction of closing data, it would have been obvious for a user to obtain this data automatically or by periodically visiting the site (e.g. E-Bay, Sotheby’s) (abstract; figures 1-3, 10 and 11) and storing the data in the auction monitoring report (figure 14). Rackson et al. specifically teach providing, through a user with an internet-based interface, comprehensive and reporting and auction status for monitoring bidding activity (column 23, lines 5-18; column/line 25/55-26/36).

10. Claims 44-46 and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al., U.S. Patent No. 6,415,270 in view of Strickland et al. U.S. Patent No. 5,956,024.

As per claims 44-46 and 64-66, Rackson et al. teach a method and system for conducting auctions that provides both buyers and sellers with an internet-based interface comprehensive reporting and auction status functionality for buyer and seller (column 23, lines 5-18; column/line 25/55-26/35). However, Rackson et al. do not specifically recite buyer notification, payment received and item shipping status. Strickland et al. teach a customer management interface for tracking, by a seller, customer account data such as payment status, buyer notification and delivery of services status (figure 1). Therefore, it would have been obvious to one of ordinary skill to provide the seller with an analogous "auction monitoring report" interface ('270 figure 14) for tracking seller related items such as sale completion ('270, column 8, lines 18-48; column 23, lines 5-18; '024, figure 1).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone

Art Unit: 3621

number is (703) 308-8057. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (703) 305-9768.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
c/o Technology Center 2100
Washington, D.C. 20231

or faxed to:

(703) 305-7687 (for formal communications intended for entry and after-final communications),

or:

(703) 746-5532 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

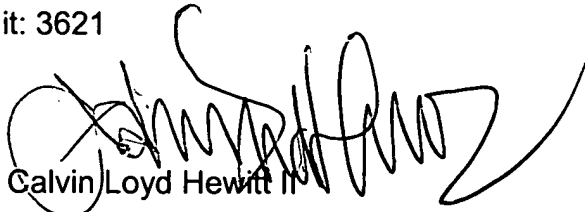
Hand-delivered responses should be brought to Crystal Park 5,
2451 Crystal Drive, 7th Floor Receptionist.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Application/Control Number: 09/644,411

Page 12

Art Unit: 3621



Calvin Loyd Hewitt II

March 24, 2005